



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,604	11/21/2003	Alireza Nazeri	NAZA101	3128

7590 04/10/2006

ROBERT L. SHAVER
DYKAS, SHAVER & NIPPER, LLP
PO BOX 877
BOISE, ID 83701-0877

EXAMINER

COHEN, LEE S

ART UNIT PAPER NUMBER

3739

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,604

Applicant(s)

NAZERI, ALIREZA

Examiner

Lee S. Cohen

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) 29-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/26/04; 8/11/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 29-55 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on March 6, 2006.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, reference to "said body surface" in line 4 lacks clarity. In claims 5, 6, 8, and 26, reference to "the (or said) data transmitting module" lacks clarity. In claim 17, reference to "said thermometer sensor" lacks clarity. In claim 23, reference to "the embedded electrodes" lacks clarity. In claims 24 and 25, reference to "the (or said) signal export module" lacks clarity.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2, 6, 8-11, 16, 18-22, 26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dominguez (6,560,473) in view of Sujdak (6,847,836). Dominguez discloses

the basic pad structure (Figure 2) including a plurality of electrodes and a positioning device 52. The reference broadly details the pad at column 4, line 58+ but fails to disclose particular structural features of the pad including the adhesive surface, electrodes, and wires. Such features are disclosed by Sujdak in Figures 2-4 (see column 4, line 15 – column 5, line 14. Given this teaching, it would have been obvious to the skilled artisan to modify Dominguez with such features since they are mere expedients in design that are well known and would optimize the structure of the pad.

Claims 3, 5, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dominguez (6,560,473) in view of Sujdak (6,847,836) as applied to claims 1 and 2 above, and further in view of Rogel (6,259,939). Dominguez fails to include a wireless transmitter. Such a feature is disclosed by Rogel at column 6, line 57+. Given this teaching, it would have been obvious to the skilled artisan to modify Dominguez with a wireless transmitter to permit remote monitoring of the patient.

Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dominguez (6,560,473) in view of Sujdak (6,847,836) as applied to claim 1 above, and further in view of Haines et al (6,385,473). Dominguez fails to include a temperature sensor. Haines et al disclose a similar EKG sensor arrangement including a temperature sensor at column 6, line 63+. Given this teaching, it would have been obvious to the skilled artisan to modify Dominguez with a temperature sensor to permit more detailed monitoring of the vital signs of the patient.

Claims 7 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dominguez (6,560,473) in view of Sujdak (6,847,836) as applied to claim 1 above, and further in view of Mok et al (6,643,541). Dominguez fails to include a micro-transmitter for each electrode.

Mok et al disclose the use of individual transmitters for each electrode (e.g., see Figure 1). Given this teaching, it would have been obvious to the skilled artisan to modify Dominguez with individual transmitters for the electrodes to eliminate wiring in the pad.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dominguez (6,560,473) in view of Sujdak (6,847,836) as applied to claim 1 above, and further in view of Sekine (5,224,479). Dominguez and Sujdak fail to include an extension device for the electrode. Sekine discloses such a device for electrodes in Figure 3. Given this teaching, it would have been obvious to the skilled artisan to modify the electrodes by adding an extension device to ensure adequate skin contact.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dominguez (6,560,473) in view of Sujdak (6,847,836) and Sekine (5,224,479) as applied to claim 12 above, and further in view of Rollman et al (5,370,116). The combination fails to show a foam extension device for the electrode. Rollman et al disclose such a feature for electrodes in Figure 3b. Given this teaching, it would have been obvious to the skilled artisan to modify the extension device of the electrodes by using foam to ensure adequate skin contact.

Claims 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dominguez (6,560,473) in view of Sujdak (6,847,836) as applied to claim 1 above, and further in view of Sekine (5,224,479) and Haines et al (6,385,473). The combination fails to show a temperature display. As detailed supra, Haines et al disclose temperature monitoring. Sekine further discloses a display module on an EKG pad. Given these teachings, it would have been obvious to the skilled artisan to modify the device by adding a display module with a

temperature display to permit a physician to obtain instantaneous feedback of the patient's parameters.

Specification

The disclosure is objected to because of the following informalities: Paragraph [0054] should reference Figure 10 in lieu of Figure 11.

Appropriate correction is required.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "66" has been used to designate elements in Figures 8 and 9. Numeral 66 in Figure 8 should be 68 as detailed in the specification. Also, numeral 94 has been omitted in Figure 11. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other cited references disclose similar structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee S. Cohen whose telephone number is 571-272-4763. The examiner can normally be reached on Monday-Friday, 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lee S. Cohen
Primary Examiner
Art Unit 3739

LSC
March 23, 2006